

(iii) REMARKS

Claims 1-42 are pending. Support for the amendment to Claim 41 may be found in the specification and claims as filed.

Restriction being made at page 2 of the action, under 35 USC 121 to:

- I. Claims 1-5 drawn to a pharmaceutical composition, classified in class 514, subclass 25, 36, 249 and 430 for example.
- II. Claims 6-8 drawn to a process for preparing a hydrophilic N-linked glycosyl prodrug compound, classified in class 536, subclass 4 and 6 for example.
- III. Claims 9-40 and 42 drawn to a method for treating a neurological dysfunction in a subject, classified in class 514, subclass 25, 36, 249 and 430 for example.
- IV. Claim 41 drawn to a method for improving the aqueous solubility and blood brain barrier penetrability of a drug, classified in class 514, subclass 25, 36, 249 and 430 for example.

The Action further requires:

"Applicant is required under 35 U.S.C. 121 to elect a composition comprising a specified individual hydrophilic N-linked glycosyl compound for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable." (page 4)

The restriction of claims under 35 U.S.C. § 121 is respectfully traversed. It is respectfully submitted that the claims have not been subdivided into an inappropriate number of groups which would require an unduly burdensome search. In addition, it is respectfully submitted that the requirement is incomplete for not clearly identifying each of the disclosed species from which Applicant is required to elect. The requirement for election of species must "*Clearly identify each (or in aggravated cases at least exemplary ones) of the disclosed species, to which claims are restricted.*" (MPEP 809.02(a)(B); at 800-40). The instant requirement does not identify any species for election.

It is respectfully submitted that all of the claims could readily be processed together in the same application as all of the claims relate to the instant novel compounds, and/or compositions containing the invention compounds, and/or methods of use and/or processes for preparing invention compounds. In particular, claims of Group I relate to neuraxial delivery compositions comprising "hydrophilic N-linked glycosyl prodrug compounds" that are "CNS acting prodrug compounds covalently linked with a saccharide through an amide or an amine bond" (claim 1) as further limited in the compounds of "Formula I"

(claim 3). Thus, a thorough search directed to the Group I claims would necessarily require a search of the art relevant to the claims of Groups II-IV. Therefore, it is respectfully submitted that there would be no serious burden on the Examiner to consider the asserted claims together in a single application.

In order to be fully responsive, however, Applicant elects the Group IV claims, i.e., claim 41, with traverse. Further, Applicant elects the compounds of Formula I for examination. Non-elected claims from Groups I-III (i.e., claims 1-5, 6-8, 9-40 and 42) are retained in this application pending final disposition of the elected claims. Right is reserved to enter dependent claims of appropriate number and scope when disposition of the presently retained non-elected claims is clarified.

(iv) SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Prior to prosecution on merits, transmitted in the July 23, 2001 were enclosed the patent of Rubin U.S. Patent Serial No. 5,639,737 (RUBIN) and publication of Glinsky et al. 2000. Clin. Exp. Metastasis 14: 253-267 (GLINSKY), both cited by the office in regard to Applicant's co-pending U.S. Patent Application Serial No. 09/547,506. No fee is required.

RUBIN relates to administering sufficient lactose to block tissue lectins reportedly involved in tumor cell metastasis and cytotoxic phenolic substrates as tyrosinase inhibitors.

GLINSKY relates to glycoamine analogs reportedly competitive for certain carbohydrate-lectin interactions in metastatic breast carcinoma.

(v) SUMMARY

Removal of the restriction requirement and identification of species to be elected are respectfully requested. If any issues remain which can be expeditiously addressed in teleconference, the Examiner is urged to contact Applicant's agent at 760-806-3385.

Respectfully submitted By:



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